

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ADRIAN ROSALIO REYES OVALLE, <i>et al.</i>	: : : : : :	CIVIL ACTION NO. 21-3591
v.		
HARRIS BLACKTOPPING, INC., et al.	: :	

ORDER

AND NOW, this 22nd day of December 2021, upon considering Defendants' Motion for partial dismissal (ECF Doc. No. 16), Plaintiffs' Response (ECF Doc. No. 17), and for reasons in the accompanying memorandum, it is **ORDERED** Defendants' Motion (ECF Doc. No. 16) is **GRANTED in part** and **DENIED in part**:

1. Defendants' Motion as to Plaintiffs' Fair Labor Standards Act and Pennsylvania Minimum Wage Act claims is **GRANTED in part** and **DENIED in part**:

a) Defendants' motion to dismiss overtime claims is **DENIED** as to Harris Blacktopping, Inc;

b) Defendants' motion to dismiss minimum wage claims and failure to pay for all hours worked is **GRANTED**;

c) Defendants' motion to a claim for failure to keep and maintain records is **GRANTED** and this claim is dismissed with prejudice; and,

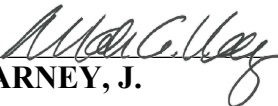
d) Defendants' motion to dismiss minimum wage and overtime claims against James Harris, Charles Harris, and Harry Harris is **GRANTED**.

2. Defendants' Motion to dismiss the Pennsylvania Wage Payment and Collection Law claims is **GRANTED in part** and **DENIED in part**:

a) Defendants' motion to dismiss Harris Blacktopping, Inc. is **DENIED**;

b) Defendants' motion to dismiss James Harris, Charles Harris, and Harry Harris is **GRANTED**;

3. Defendants' Motion is otherwise **GRANTED** with leave to amend;
4. Plaintiffs are granted leave to file a third amended Complaint as to all claims other than the failure to keep and maintain records until no later than **January 7, 2022**, if they can do so compliant with Federal Rule of Civil Procedure 11; and,
5. Absent Plaintiffs' timely amendment, Defendant Harris Blacktopping, Inc. shall file an answer to the remaining allegations no later than **January 12, 2022**.



KEARNEY, J.